

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	
	)	4:23-cr-00022-RRB-SAO
Plaintiff,	)	
vs.	)	<b>ORDER ON Defendant's</b>
	)	<b>Motion for Evidentiary Hearing</b>
SCOTTY RODGERS,	)	<b>(Dkt. 26) re: Motion to Suppress</b>
	)	<b>Evidence (Dkt. 26)</b>
Defendant.	)	
_____	)	

**INTRODUCTION**

Defendant filed a Motion to Suppress all evidence alleging the evidence result from an unlawful search and seizure at doc. 26. Contained within the Motion to Suppress, Defendant requested an evidentiary hearing for the court to determine the motion. Government opposes the Motion to Suppress Evidence and the Defendant's request for an evidentiary hearing at doc. 30.

**APPLICABLE LAW AND FACTS**

This court recognizes our Circuit has stated “[o]ur cases *require* the district court to conduct an evidentiary hearing when the moving papers filed in connection with a pre-trial suppression motion show that there are contested issues of fact relating to the lawfulness of a search.”<sup>1</sup>

While the court acknowledges the existence of a video of the encounter between law enforcement officers and the defendant on the day in question, the facts from the pleadings indicate factual disputes exist between the parties. These items include the existence and effect of a “smell” used to justify prolonging the length of the defendant’s detention, specific factors in assessing the “totality of the circumstances” to determine voluntariness of the defendant’s

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<sup>1</sup> *United States v. Mejia*, 69 F.3d 309, 318 (9<sup>th</sup> Cir. 1995) citing *United States v. Walczak*, 783 F.2d 852, 857 (9<sup>th</sup> Cir. 1986).

actions, and other relevant issues. Having reviewed the pleadings and exhibits, the court finds sufficient disputed issues of material fact for the court's resolution and that the defendant's pleadings are not merely "...conclusory allegations of illegality."<sup>2</sup> Therefore, the court grants the defendant's request for an evidentiary hearing on the motion to suppress.

**ORDER**

For the reasons below, the court GRANTS Defendant's request for an evidentiary hearing to present evidence on its Motion to Suppress Evidence at doc. 26.

To expedite the scheduling process, parties are ordered to confer and propose a primary and alternate date for the evidentiary hearing to the court by August 8, 2024. Please note the undersigned is unavailable August 15-21, 2024. Parties are encouraged to check the court calendar.

IT IS SO ORDERED.

DATED this 5<sup>th</sup> day of August, 2024 at Fairbanks, Alaska.

**s/SCOTT A. ORAVEC**

SCOTT ORAVEC  
United States Magistrate Judge

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<sup>2</sup> *United States v. Ramirez-Garcia*, 269 F.3d 945 (9<sup>th</sup> Cir. 2001).